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OFFICE OF PETITIONS

In re Application of	:	
Michael Gauselmann	:	
Application No. 09/491779	:	
Filing or 371(c) Date: 01/26/2000	:	CORRECTED ¹
Attorney Docket Number:	:	DECISION
ADP231	:	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

This Petition is hereby **granted**.

A non-final Office action was mailed December 31, 2007. Applicant filed an Amendment in response to the Office action on April 4, 2008, and Supplemented the Amendment on April 30, 2008. The Amendment and Supplement were non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment, mailed June 18, 2008. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed an Amendment in response to the Notice on July 21, 2008. The Amendment was again non-compliant. Applicant was so notified in an Office communication, mailed October 16, 2008. The Office communication informed Applicant that the Amendment filed July 21, 2008 was not fully responsive to the Notice mailed June 18, 2008. The Office communication set no new period for reply, but instead informed applicant that "[i]n no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date set forth in the Office action. A fully responsive reply must be timely filed to avoid abandonment of this application."

Applicant filed an Amendment in response to the Office communication on November 19, 2008 (Certificate of Mailing dated November 17, 2008, along with a four (4) month extension of time and fee. The Amendment was again non-compliant. No complete and proper reply to the Notice of Non-Compliant Amendment, mailed June 18, 2008, having been filed, the application became abandoned November 19, 2008.

¹ This Corrected Decision on Petition corrects the date of abandonment of the application from July 19, 2008 to November 19, 2009, the day after the non-compliant amendment, including the extension of time, were filed. Accord MPEP 711.02.

The Office mailed a Notice of Abandonment on February 6, 2009. The Notice of Abandonment indicated as the reason for abandonment Applicant's failure to file a proper reply to the Notice of Non-Compliant Amendment, mailed June 18, 2008, noting the numerous non-compliant amendments filed by Applicant.

A petition to revive the application, filed April 24, 2009, was dismissed in a Decision mailed July 9, 2009, because the petition did not reference a reply to the Notice.

The present renewed petition

Applicant files the present renewed petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment (the Examiner has approved the Amendment); (2) the petition fee (previously submitted on April 24, 2004); and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3714 for processing of the reply to the Notice filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
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